

### ARTICLE III. NONEMERGENCY MEDICAL TRANSPORTATION\*

#### Sec. 4-41. Short title.

This article shall be known as the "Nonemergency Medical Transportation Ordinance."

(Ord. No. 80-145, § 1, 12-18-80)

#### Sec. 4-42. Legislative findings and intent.

(a) During the 1979 State legislative session, authority for regulation of nonemergency medical transportation was transferred from the Public Service Commission to the Department of Health and Rehabilitative Services (Chapter 401, Florida Statutes). It mandated the elimination of economic regulations at the State level and required each County to establish local control of the industry. A prior condition for obtaining a State license and permit is a County certificate of public convenience and necessity.

(b) The purpose of this article is to ensure the health and safety of those citizens who must use nonemergency transportation. Regulation of the nonemergency medical transportation industry is susceptible to and can most effectively be carried out under a uniform plan of regulation to [of] the County as a whole.

(c) Artificial restrictions upon the nonemergency medical transportation industry based solely upon economic regulations, that limit competition and impose unreasonable standards on the industry, are not in the best interest of the health, welfare, safety and convenience of the handicapped and disabled residents of the County who rely on this form of transportation. The riding public should not be required to bear the effects of governmentally imposed restrictions upon the industry which are artificial or unnecessary.

(Ord. No. 80-145, § 2, 12-18-80)

#### Sec. 4-43. Definitions.

For the purposes of this article, the following definitions shall apply:

- (a) *Chauffeur* means a driver registered with and authorized by the Consumer Services Department to operate a nonemergency medical vehicle.

\*Editor's note—Pursuant to § 15 of Ord. No. 80-145, directing its inclusion in the Code, the editor has designated §§ 1—13 of said ordinance as Art. III, §§ 4-41—4-53.

- (b) *Commission* means the Board of County Commissioners of Dade County, Florida.
- (c) *Applicant* or *person* means any natural person(s), firm, partnership, association, corporation, or other business or governmental entity.
- (d) *Director* means the Dade County Consumer Services Department Director.
- (e) *CSD* means the Dade County Consumer Services Department.
- (f) *Fares* or *rates* means the charges established pursuant to this article to be paid for the transportation services provided by an operator.
- (g) *Trade name* means the name under which any person(s), firm, partnership, association or corporation operates its business.
- (h) *Operate* means provide transportation services utilizing a nonemergency vehicle.
- (i) *Operator* means any person who has been issued a certificate in accordance with the provisions of this article.
- (j) *Certificate* means a certificate of public convenience and necessity authorizing the holder thereof to engage in providing the transportation services described thereon.
- (k) *Nonemergency medical transportation service* or *nonemergency service* means the transportation of persons while on stretchers or wheelchairs, or whose handicap, illness, injury or other incapacitation makes it impractical to be transported by a regular common carrier such as bus or taxicab service, and neither need nor expect to need medical attention enroute. The definition of nonemergency medical transportation service or nonemergency service shall also include service provided by any vehicle operating under a Dade County certificate of public convenience and necessity received under this article which is designed to accommodate no more than eight (8) passengers, exclusive of the driver and which is equipped to transport passengers confined to a wheelchair, where such vehicle is provided by Dade County to an oper-

ator approved by resolution of the Board of County Commissioners to participate in Dade County's Prototype Paratransit Vehicle Project, as defined in Section 31-81 of the Code of Metropolitan Dade County. Excluded therefrom are hospitals exclusively transporting their patients in hospital vehicles where no fee is charged for this service; ambulance service operating under a Dade County certificate of public convenience and necessity, public bus transportation systems, school bus service operated by the Dade County Public School Board, and taxicab services operating under a Dade County license.

- (l) *Nonemergency medical transportation vehicle or nonemergency vehicles* means any motor vehicle that is specially designed, constructed, reconstructed and equipped to provide nonemergency medical transportation service, excluding any motor vehicle engaged solely in providing special transportation services for the Metro-Dade Transit Agency pursuant to a contract with Metropolitan Dade County, or any vehicle which is used solely by its owner for self transportation or for transportation of immediate family members. Nonemergency medical transportation vehicles engaged in providing MDTA special transportation services pursuant to a contract with Metropolitan Dade County are subject to the regulations contained in Chapter 31, Article IV.
- (m) *Paratransit services* mean any transportation services provided for compensation to passengers with disabilities by motor carriers between specific origins and destinations selected by an individual user at a certain time that is agreed upon by the user and the service provider.
- (n) *The Americans with Disabilities Act of 1990 or the ADA* means the civil rights act signed into law on July 26, 1990 as Public Law 101-336, 104 Stat 327, as the same may be amended from time to time.
- (o) *The ADA-defined area of Dade County* means the complementary paratransit service area as required by the ADA or any federal regulations established pursuant to the ADA. The service area includes an area with a width of three-fourths of a mile on each side of Dade County's fixed bus routes and an area consisting of a circle with a radius of three-fourths of a mile around each Metrorail station.
- (p) *Paratransit passenger* means an individual receiving paratransit services who has a physical or mental impairment as defined by the ADA that substantially limits one or more the major life activities of such individual, has a record of such impairment or has been regarded as having such an impairment.

(Ord. No. 80-145, § 3, 12-18-80; Ord. No. 87-10, § 1, 3-17-87; Ord. No. 88-124, § 2, 12-20-88; Ord. No. 91-130, § 1, 11-5-91; Ord. No. 95-221, § 1, 12-5-95)

#### Sec. 4-44. Obtaining a certificate of public convenience and necessity.

(a) *Certificate required.* From and after the effective date of this article, it shall be unlawful for any person to use, drive or operate or to cause or permit any other person to use, drive or operate any nonemergency (medical) vehicle upon the streets of Dade County without first obtaining a Dade County certificate and maintaining it current and valid pursuant to the provisions of this article.

Nothing in this article shall be construed to prohibit:

- (1) Discharge within Dade County of any passenger lawfully picked up in another county and lawfully transported into Dade County.
- (2) Pick up of a paratransit passenger by a provider of paratransit services that is duly licensed and legally authorized to provide paratransit services in a county adjacent to Dade County, provided that such county has determined that the passenger is eligible for paratransit services and such passenger is picked-up within the ADA-defined area of Dade County. A paratransit service provider shall not be required to obtain a Dade County Certificate of public convenience and necessity for such pur-

pose, nor shall a chauffeur of such paratransit vehicle be required to obtain a Dade County for-hire chauffeur's registration.

(b) *Application for certificate.* Every application for a certificate shall be in writing, signed and sworn to by the applicant, and shall be filed with CSD. The statements contained in the application shall become a part of the certificate and may be modified only in accordance with this article. The application shall be submitted on a form provided by CSD and shall contain all information required thereon including:

- (1) Sufficient information to identify the applicant.
- (2) A brief description of the vehicle proposed to be used.
- (3) A trade name under which the applicant intends to operate and a description of the proposed vehicle colors and/or markings.
- (4) The applicant's management plan including but not limited to maintenance facilities, system for handling complaints and accidents, driver training program and communication system.
- (5) The applicant's proposed service standards, including but not limited to days and hours of operation, and passenger services to be provided.
- (6) The applicant's proposed initial public fare and rate structure.
- (7) A record of all present and prior transportation business activities of the applicant during the past five (5) years.
- (8) A record of all crimes, excluding traffic, of which the applicant has been convicted within five (5) years preceding the date of the application. The applicant shall have his fingerprints and photograph taken by the Dade County Public Safety Department. In the case of a corporate or partnership applicant, such information shall be obtained from all corporate officers and directors or partners, as the case may be.
- (9) Two (2) credit references including at least one bank where applicant maintains an active account.

- (10) Each certificate application shall be accompanied by an investigative processing and initial certificate issuance fee which shall be nonrefundable.
- (11) An agreement on the part of the applicant to conform to and abide by the provisions of this article and the laws of the State of Florida.
- (12) The applicant's current financial statement. If the applicant has an existing certified financial statement, the most current certified financial statement is required.
- (13) The ability of the applicant to provide the proposed service including past work experience in the industry.
- (14) The location and description of the place or places from which the nonemergency transportation service will operate.
- (15) A statement describing the geographic area(s) to be served by the applicant.
- (16) Evidence of insurance coverage for claims arising out of injury or death of persons and damage to property of others resulting from any cause for which the operator, as a certificate holder, would be liable, as stipulated in Section 4-48.
- (17) For transfer applications only, a statement disclosing the terms and conditions of the proposed transfer, including the amount of compensation which has been paid or is payable to the transferor and any other consideration given or to be given to the transferor in connection with the transfer of the certificate of public convenience and necessity; in lieu of the requirements of this paragraph, the applicant for transfer of a certificate of public convenience and necessity, may submit a notarized copy of the purchase contract which contains all information requested by this paragraph.

(c) *County Manager's recommendation.* CSD shall review and investigate each application and report findings to the County Manager. Such investigation shall include a Metro-Dade Police Department background check, including but not limited to past business credit or financial standing and law enforcement records. CSD shall base

its recommendations on the criteria contained in subsection (d), below, the thoroughness of the applications and the competence of the applicant. The County Manager may require any further investigation or additional information that he deems necessary. The County Manager shall submit a written report and recommendation to the Commission.

(d) *Commission determination.* The Commission shall hold at least two (2) public hearings each year if required, during the months of March and September, to consider and take action upon pending certificate applications and transfer applications. CSD shall provide at least twenty (20) days' advance notice of such public hearings to all applicants and all certificate holders by certified mail. The Commission, after such public hearing, by resolution may issue or refuse to issue the certificate as applied for, or may issue a certificate with such modifications or upon such terms and conditions as in its judgment the public convenience and necessity may require. In reaching its determination, the Commission shall consider the application, the County Manager's report and recommendation, all matters presented at the public hearing and, among others, the following criteria:

- (1) The ability of the applicant to provide the proposed services.
- (2) The adequacy of the management plan of the applicant.
- (3) The benefits that will accrue to the public interest from the proposed service.

Each resolution approving an application shall specify that a certificate to operate a single nonemergency vehicle has been authorized thereby.

The County Manager may prescribe rules and regulations consistent with the criteria set forth in subsection (d)(1), (2) and (3), above, for the approval and issuance of emergency temporary certificates. Such certificates shall be effective for no more than ninety (90) days and may not be renewed without Commission approval.

(e) *Requirements for issuance of certificate.* After Commission approval and payment of a certificate fee, CSD shall issue the applicant a conditional ninety-day certificate and shall issue a

full certificate provided that the applicant has complied with the requirements of this article and presents proof of approval by the Florida Department of Health and Rehabilitation Services. No full certificate shall be issued unless the applicant has presented proof of insurance as required by Section 4-48 and passed the required vehicle inspections. If the applicant fails to comply with the requirements of this subsection within ninety (90) days after notification of Commission approval, such approval shall be automatically revoked and no certificate shall be issued.

(f) *Certificate form.* Each certificate shall be on a form developed by CSD and shall be signed by the Director. Each certificate shall contain, at a minimum, the name and address of the applicant, a description of the vehicle to which it applies and such additional terms, conditions, provisions and limitations as were authorized in the approval process.

(g) *Certificate renewal.* All certificates shall be renewed on or before January 1 of each year by payment of an annual certificate fee. All certificates which are not renewed shall automatically expire and all nonemergency transportation services rendered thereunder shall immediately cease as of January 1.

(h) *Required use of certificate.* On or before December 31 of each year, each operator shall certify on a form provided by the CSD the number of months authorized service was provided during the preceding year. Failure to certify or to operate for at least nine (9) months during the preceding year shall result in automatic expiration of the certificate.

(i) *Assignment, sale or transfer of certificate.* No certificate may be assigned, sold (either outright or under a conditional sales contract), transferred or its ownership structure changed or altered so as to result in a change or the possibility of change in the control of said certificate from the holder of said certificate to another until the proposed assignment, sale, transfer or change in control shall have been approved by the Commission. Any transfer of shares of stock or interest of any person or certificate holder so as to cause a change in the directors, officers, shareholders or managers of such person or certificate holder

shall be deemed a transfer or assignment as contemplated in this section and subject to the same rules and regulations as any other transfer or assignment.

- (1) The Director is authorized to approve assignments, sales or transfers from one operator to another when requested, upon submission of an application and payment of the investigative fee as specified in subsection (b), above, and after an investigation and final determination, based on the criteria for initial certificate approval set forth in this section.

Appeals of the Director's decision shall be made to the Commission.

- (2) The Director shall issue a replacement certificate to any operator upon application, payment of a replacement fee and presentation of proof that the certificate has been lost or stolen, or that a certificate is requested for a replacement nonemergency vehicle.
- (3) All other proposed assignments, sales or transfers must be approved by the Commission as specified in subsection (d), above, and must be supported by an application and fee as specified in subsection (b), above and an investigation and report as specified in subsection (c), above.

(Ord. No. 80-145, § 4, 12-18-80; Ord. No. 81-45, § 1, 4-21-81; Ord. No. 87-10, § 2, 3-17-87; Ord. No. 88-118, § 1, 12-6-88; Ord. No. 90-126, § 1, 11-27-90; Ord. No. 95-221, § 1, 12-5-95)

#### **Sec. 4-45. Obtaining a chauffeur's registration.**

It shall be unlawful for any person to drive a nonemergency vehicle over any street in Dade County without first having obtained a chauffeur's registration from the CSD pursuant to Chapter 31, Article V of this Code.

(Ord. No. 80-145, § 5, 12-18-80; Ord. No. 87-10, § 2, 3-17-87; Ord. No. 88-118, § 1, 12-6-88; Ord. No. 92-26, § 1, 4-21-92; Ord. No. 93-107, § 1, 10-19-93; Ord. No. 94-15, § 1, 1-20-94)

#### **Sec. 4-46. Maintaining a certificate—Operating rules.**

(a) *Display of certificate.* The certificate shall be kept at the operator's business office and an

CSD-issued certificate emblem shall at all times be displayed within the vehicle and shall be available for inspection by any police officer or authorized agent of CSD.

(b) *Color scheme.* Each operator shall adopt and use, after approval by CSD, a distinctive, uniform and decorative color scheme for all nonemergency vehicles certified pursuant to this article. No operator shall use the State-required ambulance colors and markings.

(c) *Disposal of personal property.* Personal property left by a passenger in any nonemergency vehicle shall, upon its discovery by or delivery to the chauffeur of said vehicle, be reported immediately to and deposited at the operator's office, where a record of same shall be maintained and the property held for the owner for a period of six (6) months. At the end of such time, the property shall become the property of the finder. The operator shall be responsible for chauffeur compliance with this section.

(d) *Compliance with other legislation.* Every operator shall fully comply with all ordinances, rules and regulations of the County and all statutes of the State of Florida applicable to the operation of nonemergency vehicles.

(e) *Accessibility of service to the public; accessibility of records for regulatory purposes.* Each operator shall maintain a central place of business in Dade County, with a properly listed telephone number for receiving all calls for nonemergency service, and where business records and daily manifests shall be kept. Each operator shall provide CSD with a current business telephone number and address.

(f) *Records required.* Each operator shall maintain accurate records of all financial and operating information as may be required by CSD. CSD shall be granted access to these records for the purpose of inspection and/or copying same, upon five (5) days' prior notice. All such records and information shall be confidential except that they will become public records for the purpose of revocation or suspension hearings, or, if required by the Board of County Commissioners, for the purpose of approving or disapproving applications for new certificates or transfers of certificates.

(g) *Anti-discrimination.* No operator or chauffeur shall refuse or neglect to transport to and from any place in the County any orderly person requesting service regardless of race, sex, religion, national origin, age, marital status or handicap who is willing and able to pay the prescribed fare.

(h) *Vehicle numbering system.* Each operator shall adopt a vehicle numbering system approved by CSD, which does not conflict with those in use by other operators.

(i) *Manifest or trip sheet required.* Every operator shall maintain a manifest or trip sheet which shall include, but not be limited to, the following information on each trip: Name of chauffeur, vehicle number, date, time, origin, destination, number of passengers and fare. The trip sheet form shall be approved by the CSD. Operators shall not destroy, mutilate, alter or otherwise deface any daily manifests without CSD approval. All manifests shall be available for inspection and/or copying by the CSD or any police agency during regular business hours and shall be retained by the operator for three (3) years.

(j) *Telephone access.* Each operator shall provide twenty-four-hour continuous telephone access to the public.

(k) *Advertising.* All advertising or other solicitation for business by a nonemergency medical transportation service shall emphasize in a conspicuous manner that the service does not provide medical attention, and the service provided is designed for those persons whose physical impairment(s) render it impractical to use regular common carrier or taxi services.

(l) *Stretcher service.* Operators providing nonemergency stretcher service shall:

- (1) Determine from information supplied by persons or agencies requesting said service that nonemergency stretcher service can safely accommodate passengers and maintain records of such requests on forms provided by CSD.
- (2) Require persons or agencies to pre-arrange service at least one (1) hour in advance of pickup time.

(3) Provide and maintain ten (10) consecutive hours of continuous service to the public for each day of operation.

(m) *Mobile communication.* Each operator must provide and maintain the capability for two-way communications, excluding citizen band (CB) radio, between the service's location and each of its vehicles.

(Ord. No. 80-145, § 6, 12-18-80; Ord. No. 87-10, § 2, 3-17-87)

#### Sec. 4-47. Same—Fares and rates.

(a) *Legislative basis for establishing rates.* The provisions of this section shall be the exclusive method for the establishment of nonemergency vehicle rates throughout Dade County.

(b) *Rates to be charged.* It shall be unlawful for any operator to charge, demand, request or accept any fare other than the rates established pursuant to this article.

(c) *Methods of establishing rates.* Each operator may establish rates under one (1) or both of the following categories:

##### (1) *Public rates:*

- a. The operator's initial rate will be that rate proposed in the application for certificate and will become effective upon issuance of the certificate.
- b. An operator may change the rate by filing with CSD a proposed rate thirty (30) days prior to its effective date. The proposed rate shall be posted within the passenger compartment section of each vehicle at least fifteen (15) days before it becomes effective.

- c. The public rate(s) fare structure shall be clearly set forth as a schedule of charges based on service elements understandable by the public, posted within the passenger compartment of each vehicle, and upon request explained to each person requesting service.

- (2) *Contract rates.* Each operator may establish, through written contract, rates other than the public rate. Such rates shall become effective after the executed contract containing such rates has been filed with CSD. Contract rates shall not be modified except in accordance with the requirements of this section.

(Ord. No. 80-145, § 7, 12-18-80; Ord. No. 87-10, § 2, 3-17-87)

**Sec. 4-48. Same—Insurance requirements.**

(a) *Insurance required.* No nonemergency vehicle shall be permitted to operate without the operator having first obtained and filed with CSD a certificate of insurance for each nonemergency vehicle on forms provided by CSD.

(b) *Type of insurance.* Bodily injury and property damage insurance with limits of liability no less than those established on a Statewide basis by the Florida Department of Health and Rehabilitative Services for the operation of nonemergency vehicles is required. This insurance shall be written by an insurance company authorized to do business in the State of Florida. No policy shall be accepted for a period shorter than six (6) months.

(c) *Implications of noncompliance.* Failure to provide current certificates of insurance or to maintain appropriate insurance coverage for each nonemergency vehicle shall be grounds for automatic suspension of that vehicle's certificate.

(d) *Notice of change, cancellation, expiration.* Each automobile liability insurance policy shall be endorsed to provide for thirty (30) days' notice by registered mail to CSD of any material change, cancellation or expiration.

(e) *Self-insurance.* An operator may comply with these insurance requirements if found to be

a qualified self-insurer by the State of Florida. An operator's failure to maintain the requirements of a qualified self-insurer shall be grounds for CSD to take the actions described in subsection (c) above.

(Ord. No. 80-145, § 8, 12-18-80; Ord. No. 87-10, § 2, 3-17-87)

**Sec. 4-49. Same—Vehicle standards.**

(a) *Enumeration.* The following vehicle standards apply to all nonemergency vehicles. It is the operator's responsibility to ensure that each nonemergency vehicle operated under the provisions of this article meets the following standards at all times:

- (1) Comply with the safety and mechanical standards of the current edition of Florida's Vehicle Inspection Manual, Florida Highway Patrol.
- (2) Display a current, valid State of Florida vehicle inspection sticker.
- (3) Have a functioning speedometer indicating speed in miles per hour and a functioning odometer indicating distance in miles.
- (4) Have a functioning mechanism which ensures that doors remain securely closed during travel.
- (5) The vehicle exterior must be free of grime, oil or other substances and free from cracks, breaks, dents and damaged paint that detract from the overall appearance of the vehicle and that could harm, injure, soil or impair the passenger or the passenger's personal belongings.
- (6) The passenger compartment must be clean, free from torn upholstery or floor coverings, damaged or broken seats, and protruding sharp edges.
- (7) The operator's name or business name, operator's business telephone number and nonemergency vehicle number shall be permanently affixed to the exterior of the vehicle in accordance with instructions issued by CSD.

- (8) Comply with the current sanitation and maintenance and vehicle design standards of the Florida Department of Health and Rehabilitative Services for permitting as a nonemergency vehicle.
- (9) Be equipped with a functioning two-and-one-half-pound ABC fire extinguisher.
- (10) Each nonemergency stretcher vehicle shall have a minimum of forty-eight (48) inches from the finished floor to the finished ceiling in the passenger compartment.
- (11) Each vehicle utilized to transport passengers confined to wheelchairs shall have a lift operated electrically or hydraulically or a manually operated ramp with sufficient capacity to safely and smoothly lift or load passengers into the vehicle.
- (12) Each vehicle shall have a mobile two-way radio, excluding CB radios, with all normal accessories, and shall meet all standards and requirements as specified by the Federal Communications Commission (FCC).
- (13) No motor vehicle older than fifteen (15) model years shall be operated as a non-emergency vehicle.

(b) *Inspection for compliance.* CSD shall provide for annual inspection of each vehicle between and including one (1) and two (2) model years old; CSD shall provide for semi-annual inspection of each vehicle between and including three (3) and four (4) model years old; CSD shall provide for quarterly inspection of each vehicle between and including five (5) and fifteen (15) model years old or compliance with the foregoing standards. The CSD shall charge a fee for such inspection. In addition to regular inspection, CSD may also inspect any nonemergency vehicle at any time. The results of each inspection shall be recorded and a copy provided the operator. Any vehicle failing to meet required safety standards shall not be operated as a nonemergency vehicle until such time as the vehicle satisfactorily passes a reinspection. The CSD shall charge a fee for such reinspection. Notwithstanding the foregoing, the quarterly inspection of each vehicle between and including five (5) and fifteen (15) model years old

to determine compliance with the vehicle condition standards required by Section 4-49(a)(4), (5), (6), (7), (8), (9), (10), (11) and (12) shall commence on May 1, 1995 and the quarterly inspection of such vehicle to determine compliance with the vehicle safety and mechanical standards required by Section 4-49(a)(1), (2) and (3) shall be reduced to semi-annual inspection until July 1, 1998.

(Ord. No. 80-145, § 9, 12-18-80; Ord. No. 87-10, § 2, 3-17-87; Ord. No. 88-118, § 1, 12-6-88; Ord. No. 88-124, § 2, 12-20-88; Ord. No. 92-66, § 1, 7-7-92; Ord. No. 93-85, § 1, 9-7-93; Ord. No. 94-190, § 1, 10-7-94; Ord. No. 95-99, § 1, 6-6-95; Ord. No. 96-186, § 1, 12-17-96)

#### **Sec. 4-50. Maintaining the chauffeur's registration.**

(a) *Requirements enumerated.* A chauffeur shall comply with the following regulations:

- (1) Every chauffeur shall operate his vehicle in accordance with principles of defensive driving.
- (2) Each chauffeur shall display at all times while driving a nonemergency vehicle a current chauffeur's registration and shall not drive a nonemergency vehicle if said chauffeur's registration has been revoked or suspended.
- (3) Each chauffeur at all times shall maintain a neat appearance.
- (4) Chauffeur shall select routes to trip destinations that are most economical to the passenger unless otherwise directed or agreed to by the passenger.
- (5) No chauffeur shall collect fares or compensation for the transportation services other than the established rates or charges for the type of service being provided, nor may any driver collect any additional payment for transporting any baggage which accompanies the passenger; provided, however, that this provision shall not apply to gratuities, nor shall the words "fares" or



"compensation" be construed to include gratuities. Upon request the passenger will be given a receipt for the fare collected.

- (6) Each chauffeur shall at all times operate all vehicle special equipment with due regard for the safety and convenience of the passenger.



- (7) Each chauffeur shall successfully complete bi-annually a training and orientation session conducted by an operator authorized to do so by CSD. Such session will include, but not be limited to, instruction on subjects as defensive driving, safety and convenience of passengers, courtesy, operation of specialized equipment in the vehicle, and requirements of this article.

(b) *Grounds for automatic suspension.* Any chauffeur's registration shall be automatically suspended by CSD subject to any administrative hearing to revoke the chauffeur's registration, should the chauffeur become addicted to the use of controlled substances or intoxicating liquors, plead nolo contendere, plead guilty, or be convicted of a felony or of any criminal offense involving moral turpitude or of a crime involving the use of deadly weapons or trafficking in narcotics, or should the State of Florida revoke or suspend the chauffeur's license.  
(Ord. No. 80-145, § 10, 12-18-80; Ord. No. 87-10, § 2, 3-17-87)

#### Sec. 4-51. Duties of the Consumer Services Department.

(a) In addition to the duties and responsibilities specified in this article, CSD shall be charged with the following duties and responsibilities:

- (1) Process, investigate and prepare all reports required by this article.
- (2) Investigate and prepare reports on alleged violations of this article.
- (3) Enforce the provisions of this article.
- (4) Attempt to resolve complaints received from any source concerning the industry.
- (5) Develop and implement, in cooperation with the industry, service expansion and improvements.
- (6) Provide technical assistance to the industry.
- (7) Create and render technical assistance to a nonemergency vehicle advisory group comprised of representatives from consumers, the industry, transportation-related interests and public interest organizations. The

role of the advisory group shall be to monitor the effectiveness of the ordinance [from which this article derives,] improve communication between the County and parties interested in nonemergency transportation, and help develop improved transportation services.

- (8) Perform any other functions assigned by the County Manager.

(b) The Director may propose and the County Manager may promulgate further rules and regulations to carry out the provisions of this article.

(c) Whenever in this article a fee is charged or is required to be paid, the amount of such fee shall be established by administrative order of the County Manager approved by the Commission. Such fees shall be deposited in a separate Dade County fund and shall be used exclusively to accomplish the regulatory purposes of this article. The amount of each fee established hereunder shall be reasonably related to the cost of the services and regulation provided therefor.  
(Ord. No. 80-145, § 11, 12-18-80; Ord. No. 87-10, § 2, 3-17-87; Ord. No. 88-118, § 1, 12-6-88)

#### Sec. 4-52. Enforcement and penalties.

(a) *Enforcement agent.* This article shall be enforced by authorized personnel of CSD.

(b) *General means of enforcement.* CSD may utilize either of two (2) general means of enforcing this article:

- (1) Fining the operator or chauffeur, or
- (2) Suspending or revoking the operator's certificate or the chauffeur's registration.

(c) *Fining the operator or chauffeur.*

- (1) CSD shall develop a deficiency or warning system through which operators or chauffeurs are given written notice of minor violations and a specified period of time to correct same. For more serious or repeated violations, CSD shall develop a citation form. Authorized personnel will issue citations as official notice of violations. Civil violations by chauffeurs shall be processed under Chapter 8CC of the Code.

- (2) Deficiency reports and/or citations shall be issued to the party responsible for the violation. Any person issued a deficiency report or a citation shall acknowledge receipt thereof by his signature. Notice given to a chauffeur for a violation involving the vehicle under his control shall also be sent to the operator.
- (3) Failure to correct items recorded on a deficiency report by the time specified shall automatically cause a citation to be issued for each such item. In the case of chauffeurs, for civil violations, a citation shall be issued under Chapter 8CC of the Code.
- (4) Except for chauffeurs receiving civil violations, each person issued a citation shall within ten (10) days satisfy the citation by either of the following means:
  - a. Correction of the violation and payment to CSD of a twenty-five-dollar (\$25.00) fine. In addition to any other penalties provided by law, this twenty-five-dollar (\$25.00) fine may be imposed for each and every violation of the provisions of this article. Violations which result in fines pursuant to this section shall not be the basis for revocation or suspension proceedings except that three (3) or more violations resulting in fines within any twelve-month period may constitute grounds for revocation or suspension proceedings.
  - b. Filing a written request for a hearing on the charges. The hearing shall be within the jurisdiction of the County Court and the Clerk of the Court is hereby empowered to dispose of the case and fines assessed through the normal procedure.

Failure to do one (1) of the foregoing may result in revocation or suspension proceedings or be punishable by fines of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) and/or imprisonment not to exceed ten (10) days.

- (5) Violation of revocation or suspension ordered pursuant to this section shall be

punishable by fines of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) and/or imprisonment not to exceed ten (10) days.

- (6) Operation of a nonemergency vehicle without the required certificate shall be punishable by fines of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) and/or imprisonment not to exceed ten (10) days.
- (7) Anyone who engages a nonemergency vehicle with intent to defraud the chauffeur or operator shall be in violation of this article and subject to a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) and/or imprisonment not to exceed ten (10) days.
- (d) *Suspension or revocation of the certificate or chauffeur's registration.*
  - (1) *Grounds for suspension or revocation.* Except for automatic suspensions as provided for elsewhere in this article, nonemergency vehicle certificates and chauffeur's registrations are subject to suspension or revocation by the Director as follows:
    - a. Nonemergency certificate. Upon notice and hearing as hereinafter specified unless waived by the certificate holder when it appears that:
      1. The holder thereof has been convicted of a felony or any criminal offense involving moral turpitude; or
      2. The certificate was obtained by an application in which any material fact was omitted or falsely stated; or
      3. The holder thereof has permitted the nonemergency vehicle to be operated in violation of any law; or
      4. The holder thereof has failed after being notified in writing to comply with, or has willfully violated any of the provisions of this article; or
      5. The operator has not complied with the requirements of subsection (c)(5), above; or

6. The certificate has been suspended three (3) or more times within a twelve-month period; or
  7. The public interest will best be served by revocation or suspension; provided, however, that good cause be shown.
- b. Chauffeur's registration. Upon notice and hearing as hereinafter specified unless waived by chauffeur when it shall appear that:
1. The chauffeur has failed, after being notified in writing, to comply with or has willfully violated any of the provisions of this article; or
  2. The registration was obtained by an application in which any material fact was omitted or falsely stated; or
  3. The chauffeur has not complied with the requirements of fine in subsection (c)(5), above; or
  4. The registration has been suspended three (3) or more times within a twelve-month period; or
  5. The public interest will best be served by revocation or suspension; provided, however, that good cause be shown.
- (2) *Hearing procedure.* All hearings required by this section shall be preceded by a minimum of ten (10) days' written notice. Said notice shall specify the Director's proposed action and the grounds upon which the action is predicated. The operator or chauffeur may be represented by legal counsel and shall be entitled to present a defense to the proposed action. Failure to appear at a duly noticed hearing shall be deemed a waiver of the right to hearing and an admission of the acts specified in the notice. All such hearings shall be conducted before a hearing examiner who shall not have responsibility for the enforcement of this article and who shall be designated by the Director. Insofar as is practicable, hearings shall be conducted in accordance with the rules of civil procedure governing

the procedure in Circuit Court, except as may be provided in the Dade County Code or by rules adopted by the Board of County Commissioners. All such hearings shall be reported and, at the request of any party, transcribed.

Within a reasonable time after the conclusion of the hearing, the hearing examiner shall submit to the Director a statement of findings, conclusions and recommendations. If the hearing examiner affirms the Director's proposed action, the appellant shall pay the administrative costs of the hearing, unless such decision is reversed on subsequent appeal. The Director shall promptly notify all parties of his or her decision.

- (3) *Authority to subpoena witnesses, compel production of records.* The hearing examiner shall have the power to administer oaths, subpoena witnesses upon the written request of any interested party, and may compel the production of records, books or papers. Should the hearing examiner without good cause refuse to subpoena witnesses or compel the production of books, records or papers, then any interested party may, without cost to the petitioner, petition the County Court to order the appearance of any witness or witnesses or order the production of any books, records or papers necessary to a fair and proper hearing. Failure of any witness ordered to appear or failure of any person ordered to produce books, records or papers may constitute a contempt of court and may be punishable in the same manner as any other contempt of court.

If any witness fails to honor a subpoena, the party requesting the same may apply to the County Court for a rule to show cause why the witness should not appear and, if after being ordered to appear by the Court, the witness fails to comply therewith, the Court after due notice and hearing may adjudge the witness in contempt of court and punish him accordingly. The subpoenaing party shall bear the cost of such subpoena.

- (4) *Appeal of Director's decision.* The Director's decision may be appealed to the County Manager within ten (10) days of the date of said decision. Such appeal shall not stay the Director's decision. Upon such an appeal, the County Manager shall consider the transcription of the hearing and all evidence produced at the hearing. No further testimony or exhibits shall be permitted. The County Manager shall, within twenty (20) days, on the basis of the record established before the Director, either affirm, reverse or modify the Director's decision.
- (5) *[Length of suspension.]* Suspensions pursuant to this section shall not exceed six (6) months. Three (3) or more suspensions within any twelve-month period may constitute grounds for revocation of the certificate or chauffeur's registration so suspended.
- (6) *Appeal of County Manager's decision and Board of County Commissioner's decision.* Appeals from the County Manager's decisions pursuant to this section and appeals from any Board of County Commissioners' decision concerning certificates shall be by certiorari to the Circuit Court of the Eleventh Judicial Circuit in and for Dade County, in accordance with the Florida Rules of Appellate Procedure.
- (e) *Other enforcement means.* Notwithstanding the provisions of this article, the Director may secure enforcement of the provisions of this article by any legal action necessary, such as application to any court for injunctive relief or other appropriate relief.  
(Ord. No. 80-145, § 12, 12-18-80; Ord. No. 87-10, § 2, 3-17-87; Ord. No. 88-118, § 1, 12-6-88; Ord. No. 94-15, § 1, 1-20-94)

#### Sec. 4-53. Special provisions.

(a) *Exclusive Countywide regulations.* The provisions of this article shall be the exclusive uniform regulations applicable to the provision and operation of nonemergency transportation services throughout Dade County in the incorporated and unincorporated areas without regard to municipal boundaries.

(b) *Exemption from fees.* Federal, State, County and municipal governments and their employees shall be exempted from all fees required in this article for nonemergency vehicles owned, operated and driven by such governments.

(c) *[Effect on vehicles currently operating.]* Any person who on the effective date of this article is operating a nonemergency vehicle within Dade County and who has continuously operated said vehicle since being authorized to do so by a Florida Public Service Commission certificate of public convenience and necessity authorizing nonemergency service in Dade County shall be entitled to a certificate for each nonemergency vehicle that operated at least six (6) months during the twelve-month period immediately preceding the effective date of this article; proof of such operation is required. A timely application for each certificate must be submitted on forms provided by CSD and shall include thereon identification of a separate and distinct vehicle meeting the requirements of this article. The application shall be accompanied by proof of insurance as required by Section 4-48, proof of possession of the required Florida Public Safety Commission certificate of public convenience and necessity and operating authority for said vehicle, and the fee required by Section 4-44.

No certificate shall be issued in accordance with this section unless same has been applied for on later than ninety (90) days after the effective date of this article.

(Ord. No. 80-145, § 13, 12-18-80; Ord. No. 87-10, § 2, 3-17-87)